

RAPPAHANNOCK COUNTY

CLAIMANT
NAME OF OWNER

#24 - Miller, E.T.-& G.Tyler Miller

Number of Acres: 338.6

Location: On headwaters of Spruce Branch near top of Blue Ridge and south of Jenkins Gap.

Roads: 10 miles to Bentonville (nearest R.R.point) over 4 miles of mountain road and 6 miles of macadam.

Soil: Sandy clay loam. Gently rolling slopes to the east.

History of Tract and condition of timber: Approximately 120 acres of the timbered area has been completely cut and repeatedly burned over.

TIMBER: --Approximately 96 A. of this tract has a light scattering stand aggregating about 20 M. ft. This cannot be operated at a profit.

Improvements: Used as camp for apple pickers.

Acreage and value of types:

Types	Acreage		Value per acre	Total Value
Ridge:				
Slope: ---	170.6	@	\$3.00	\$511.80
Cove:				
Grazing Land: ----	150	@	22.25	3337.50
Fields Restocking:				
Cultivated Land:				
Orchard: -----	18	@	108.67	1950.00
Minerals:				\$5799.30
Value of Land: \$	5799.30			
Value of Improvements: \$	175.00			175.00
Value of Orchard: \$				\$5974.30
Value of Minerals: \$				
Value of Fruit: \$				
Value of Timber: \$				
Value of Wood: \$				
Value per acre for tract: \$	14.69			
Incidental damages arising from the taking of this tract: \$				None.

Geo. N. Bell CLERK

Com to Dept 5th - Front Royal

24

Copy this

Claim of G. Tyler Miller and Mrs. John J. Miller
In the Circuit Court of Rappahannock County, Virginia, No. 149, At Law.
The State Commission on Conservation and Development of the State of Virginia, Petitioner, vs. Clifton Aylor and others, and Thirty-seven Thousand Four Hundred (37,400) acres

more or less, of land in Rappahannock County, Virginia, Defendants.
The undersigned, in answer to the petition of the State Commission on Conservation and Development of the State of Virginia, and in response to the notice of condemnation awarded upon the filing of said petition and published in accordance with the order of the Circuit Court of Rappahannock County, Virginia, asks leave of the Court to file this as his answer to said petition and to said notice.

My name is G. Tyler Miller

My Post Office Address is Front Royal, Virginia

I claim a right, title, estate or interest in a tract or parcel of land within the area sought to be condemned, containing about 198.2 acres, on which there are the following buildings and improvements: One four room dwelling valued at \$200.00, about 18 acres in orchard with approximately 700 trees (25 yrs. old) valued at \$16,667.00

This land is located about 4 1/2 miles from Flint Hill Virginia, in the Wakefield Magisterial District of said County.

I claim the following right, title, estate or interest in the tract or parcel of land described above: (In this space claimant should say whether he is sole owner or joint owner, and if joint owner give names of the joint owners. If claimant is not sole or joint owner, he should set out exactly what right, title, estate or interest he has in or to the tract or parcel of land described above).

Joint owner with Mrs. John J. Miller

The land owners adjacent to the above described tract or parcel of land are as follows:

North Thomas Settle

South J. J. Miller Estate

East Thomas Settle

West Mrs. Julia M. Settle

I acquired my right, title, estate or interest to this property about the year 1926 in the following manner:

By deed from Dr. H. T. Miller

I claim that the total value of this tract or parcel of land with the improvements thereon is \$22,772.00. I claim that the total value of my right, title, estate or interest, in and to this tract or parcel of land with the improvements thereon is \$ 11,336.00.

I am the owner of ----- acres of land adjoining the above described tract or parcel of land but lying outside the Park area, which I claim will be damaged by the proposed condemnation of lands within the Park area, to the extent of \$-----

(In the space below should be set out any additional statements or information as to this claim which claimant desires to make; and if practicable he should also insert here a description of the tract or parcel of land by metes and bounds).

Remarks: The valuations are distributed, as follows: 100 acres of grazing land (approximately) \$5000.00; 18 acres of orchard (700 trees, 25 yrs. old) in good condition \$16,667.00; 7 acres (approximately) burned-over orchard land @ \$25.00 per acre \$175.00; 73 acres of timber land @ \$10.00 per acre \$730.00; one dwelling \$200.00. (Continue remarks if necessary on the back).

Witness my signature (or my name and mark attached hereto) this 31st day of July, 1930.

G. Tyler Miller

STATE OF VIRGINIA, COUNTY OF Rappahannock, To-wit:

The undersigned hereby certifies that G. Tyler Miller the above named claimant personally appeared before him and made oath that the matters and things appearing in his above answer are true to the best of his knowledge and belief, this 31st day of July, 1930.

Jas. M. Settle
Clerk of the Court, or ~~Special Investigator or Notary Public, or Justice of the Peace.~~

Claim of G. Tyler Miller and Mrs. John J. Miller
In the Circuit Court of Rappahannock County, Virginia, No. 149, At Law.
The State Commission on Conservation and Development of the State of Virginia, Petitioner, vs. Clifton Aylor and others, and Thirty-seven Thousand Four Hundred (37,400) acres

more or less, of land in Rappahannock County, Virginia, Defendants.
The undersigned, in answer to the petition of the State Commission on Conservation and Development of the State of Virginia, and in response to the notice of condemnation awarded upon the filing of said petition and published in accordance with the order of the Circuit Court of Rappahannock County, Virginia, asks leave of the Court to file this as his answer to said petition and to said notice.

My name is G. Tyler Miller
My Post Office Address is Front Royal, Va.

I claim a right, title, estate or interest in a tract or parcel of land within the area sought to be condemned, containing about 198 acres, on which there are the following buildings and improvements: One four room dwelling valued at \$200.00 about 20 acres in orchard with approximately 1000 trees (25 yrs. old) valued at \$25. per tree - \$25,000

This land is located about 4 1/2 miles from Flint Hill Virginia, in the Wakefield Magisterial District of said County.

I claim the following right, title, estate or interest in the tract or parcel of land described above: (In this space claimant should say whether he is sole owner or joint owner, and if joint owner give names of the joint owners. If claimant is not sole or joint owner, he should set out exactly what right, title, estate or interest he has in or to the tract or parcel of land described above).

Joint owner with Mrs. John J. Miller

The land owners adjacent to the above described tract or parcel of land are as follows:

- North J. K. Marlowe, Jas. M. Settle
- South Jas. M. Settle
- East J. M. Settle
- West J. J. Miller Estate

I acquired my right, title, estate or interest to this property about the year 1926 in the following manner:

By deed from Dr. H. T. Miller

I claim that the total value of this tract or parcel of land with the improvements thereon is \$31,360. I claim that the total value of my right, title, estate or interest, in and to this tract or parcel of land with the improvements thereon is \$15,680.

I am the owner of --- acres of land adjoining the above described tract or parcel of land but lying outside the Park area, which I claim will be damaged by the proposed condemnation of lands within the Park area, to the extent of \$ ---.

(In the space below should be set out any additional statements or information as to this claim which claimant desires to make; and if practicable he should also insert here a description of the tract or parcel of land by metes and bounds).

Remarks: The valuations are distributed as follows: 50 acres of grazing land at \$25.- \$1250.00; 50 acres grazing land @ \$75.- \$3,750. 70 acres timber @ \$8.- \$560.; 8 acres burned over orchard land @ \$75. \$600.; 20 acres orchard (1000 trees) 25 years old) in splendid condition, \$25. a tree - \$25,000. one dwelling \$200.00 (Continue remarks if necessary on the back).

Witness my signature (or my name and mark attached hereto) this 7th day of June, 1930.

G. Tyler Miller

STATE OF VIRGINIA, COUNTY OF Warren, To-wit:

The undersigned hereby certifies that G. Tyler Miller the above named claimant personally appeared before him and made oath that the matters and things appearing in his above answer are true to the best of his knowledge and belief, this 7th day of June, 1930.

Ornua N. Stokes
Clerk of the Court, or Special Investigator or Notary Public, or Justice of the Peace.

My commission expires Dec. 3, 1933.

Claim of
G. Tyler Miller
+
E. T. Miller -

Notary Public of Justice of the Peace

This 7th day of June 1930
and things appearing in his above answer are true to the best of his knowledge and belief
The undersigned hereby certifies that G. Tyler Miller

STATE OF VIRGINIA, COUNTY OF Warren
of June 1930
Witness my signature (or my name and mark attached hereto) this 7th day

Witness my signature (or my name and mark attached hereto) this 7th day

4000; 80 acres or more (1000 trees) 25 years old in 20 months 1924-
50 acres timber 100-1200; 5 acres burned over orchard land 4 1/2
acres land at 125-1250.00; 50 acres grazing land 4 1/2-125-125.750

Remains the value of one acre as hereinafter set follows: 30 acres in
description of the tract or parcel of land by notes and bonds).

(In the space below should be set out any additional statements or information as to
posed condemnation of lands within the Park area, to the extent of \$

parcel of land but lying outside the Park area, which I claim will be damaged by the pro-
I am the owner of _____ acres of land adjoining the above described tract or

in and to this tract or parcel of land with the improvements thereon is \$ 125,000.
on is \$25,000 I claim that the total value of this tract or parcel of land with the improvements there-

I claim that the total value of this tract or parcel of land with the improvements there-

by good title to E. T. Miller

I retained my right title estate or interest to this property about the year 1880 in the

following manner:
West J. T. Miller Estate

East J. T. Miller

South J. T. Miller

North J. T. Miller, Jas. M. Gettle

The land owners adjacent to the above described tract or parcel of land are as follows:

Parcel of land described in the above petition as being the land of John T. Miller

should set out extent of my interest in the tract or parcel of land described in the above petition

I claim the following interest in the tract or parcel of land described in the above petition

of said County.

miles from Clint Hill Virginia in

to be condemned, containing _____ acres, on which there are the following

I claim a right title estate or interest in a tract or parcel of land within the area sought

My Post Office Address is _____
My name is G. Tyler Miller

as his answer to said petition and to said notice.
County, Virginia, asks leave of the Court to file this

upon the filing of said petition and published in accordance with the order of the Circuit

repeal of the State of Virginia, and in response to the notice of condemnation awarded

more or less of land in Rappahannock County, Virginia, Defendants

four Hundred (35,000) acres
Plaintiff vs G. Tyler Miller and others, and Miller-Dever Trust

The State Commission on Conservation and Development of the State of Virginia, Pet-
In the Circuit Court of Rappahannock County, Virginia, No. 145 At Law
Claim of G. Tyler Miller and Mrs. John T. Miller

FILED IN
CLERK'S OFFICE
RAPPAHANNOCK COUNTY

June 7 1930
Teste: Jas. M. Settle Clerk

#24 - E.T. & G.T. Miller - 408 Acres

Acreage Claimed: 198 Acres

Value Claimed: -

Location: On headwaters of Spruce Branch near top of Blue Ridge and south of Jenkins Gap.

Incumbrances, counter claims or laps: None known.

Roads: 10 miles to Bentonville (nearest R.R. point) over 4 miles of mountain road and 6 miles of macadam.

Soil: Sandy clay loam. Gently rolling slopes to the east.

History of tract and condition of timber: Approximately 120 acres of the timbered area has been completely cut and repeatedly burned over.

Improvements: House:- Used as camp for apple pickers-----\$175.00

Timber: Approximately 96 A. of this tract has a light scattering stand aggregating about 20 M. ft. This cannot be operated at a profit.

Acreage and value of land by types:

<u>Types:</u>	<u>Acreage:</u>	<u>Value Per A.</u>	<u>Total Value</u>
Slope	184	\$2.00	\$368.00
F G	61	25.00	1525.00
F G	120	15.00	1800.00
* Orchard	22	58.00=	\$1276.
Orchard	11	50.00=	550.
	<u>398</u>		<u>\$1826.</u> \$3693.00

Total value of land: \$3693.00

" " " improvements 175.00

" " " orchard----- 1826.00

22 A. @ 58.-- \$1276.)

11 A. @ 50.-- 550.)

\$1826.00

Value of Tract ----- \$5694.00

Average value per acre for tract-- \$14.33

* Note:- 15 A at \$80.00 per A. = \$1200.00
 7 A at \$10.00 per A. = 70.00
\$1270.00 = \$58.00

IN THE CIRCUIT COURT OF RAPPAHANNOCK COUNTY

The State Commission on Conservation
and Development,)

v.)

Mrs. E. T. Miller, G. Tyler)
Miller)

Condemnation Proceedings.

TO THE JUDGE OF THE CIRCUIT COURT OF RAPPAHANNOCK COUNTY:

Your petitioners Mrs. E. T. Miller and George Tyler Miller respectfully show:

1st. That they are seized in fee simple of a certain tract of land in Rappahannock County consisting of about twenty acres. This tract is set in orchard and contains one thousand trees of the best varieties of apples, twenty five years old in the very best of condition. From this tract petitioners each year for a series of years have received substantial returns and a profitable income. Petitioners value said tract at \$16000.00. The average annual net income from the same has been and should be \$1000.00.

2nd. Under chapter 410, Acts 1928, the State Commission on Conservation and Development has herein instituted proceedings to condemn said tract. In these proceedings the Court appointed M. L. Price, M. Lohr Capper and George H. Levi special investigators and special appraisers and said special investigators and special appraisers were to ascertain among other matters the compensation to be paid petitioners for their fee simple interest in said tract.

3rd. Said special investigators and appraisers have reported to the court as compensation for said tract the sum of nineteen hundred and fifty dollars, not quite the net income from said property for two years.

4th. The said compensation is so grossly and manifestly inadequate as to show that the said special investigators and appraisers were influenced by gross partiality and by gross

error or misapprehension of the facts and ignorance and mistake as to the nature and effect of the evidence with reference to which such finding or findings were made.

5th. Under authority of sections 8 and 28 of said Act said special investigators and special appraisers considered information derived by them from sources wholly unjudicial in character and frequently denounced by the Supreme Court of Appeals of Virginia as so unjudicial in character as to deprive the findings of any board of probative value.

By virtue of section 8 and section 28 said boards, either collectively or individually, are authorized to "hear any statement or expression of opinion made under oath or not under oath, by any person, whether such person is or is not interested in the fact or facts they are seeking to ascertain and determine," and the widest range of investigation, wholly unjudicial in character, is vested in these boards, and by section 33 the findings of such a board, based on such an investigation is made, within narrow limits, conclusive on the court. Such a legislative enactment is an unauthorized invasion upon the province of the courts.

6th. Petitioners are not given their day in court. When before the special investigators and special appraisers, they act unjudicially in their investigation, and, when, before the court, the court is denied the right to hear the claims of petitioners fully, so that petitioners ~~may not~~^{are} be deprived of their property without due process of law. Petitioners claim the guarantees secured to them by the Bill of Rights of Virginia and by the 14th Amendment of the Constitution of the United States.

7th. Petitioners move the court that the report of the said special investigators and special appraisers be set aside as to their valuation on said property, and that the court summon a jury and hear the claim of petitioners.

Harrison + Harrison
Attorneys

G. T. Miller
G. T. Miller

(over)

*Exceptions of
H. T. Miller & E. T. Miller.*

STATE COMMISSION ON CONSER-
VATION & DEVELOPMENT OF THE
STATE OF VIRGINIA,

VS) NO. 149

CLIFTON AYLOR, ET AL

FILED IN
CLERK'S OFFICE
RAPPAHANNOCK COUNTY

July 6th 19 32
Teste: *Jas. M. Seelye*, Clerk

LAW OFFICES
HARRISON & HARRISON
WINCHESTER, VIRGINIA

It is further adjudged and ordered that the above-mentioned report of arbitrators be filed with the record of this proceeding:- to-wit, a report bearing date February 21, 1934, and signed by J. R. H. Alexander, H. W. Bertram and Philip Williams; and suppelemental report bearing date February 27, 1934, and signed by J. R. H. Alexander, H. W. Bertram and Philip Williams; and amended report bearing date March 1, 1934, and signed by J. R. H. Alexander, H. W. Bertram and Philip Williams.

(1)

Wednesday

Enter

Alex

Mich. 14, 1934 -

Entered - H. 217 -

(12)

VIRGINIA: IN THE CIRCUIT COURT OF RAPPAHANNOCK COUNTY

The State Commission on Conservation and Development of
the State of Virginia - - - - - Petitioner,

V. AT LAW NO. 149

Clifton Aylor and others and Thirty-Seven Thousand Four
Hundred (37,400) Acres of land, More or Less, - Defendants.

On the ^{14th}~~12th~~ day of March, 1934, came the petitioner in the above styled proceeding, and exhibited the record in said proceeding, including the report of the Board of Appraisal Commissioners therein, Table II and III thereof, and the county Ownership Map filed therewith; and including also the several exceptions and objections to said report and motions to disapprove and decline to accept the same filed with the record, and the several motions of petitioner praying the dismissal of the said exceptions, objections and motions, under authority of Section 35 of the Public Park Condemnation Act, on the said exceptions, objections and motions, the several answers thereto, and the supporting affidavits filed with the record; and including also the order of this Court, setting this proceeding for hearing on the 23rd day of February, 1934, and the affidavits filed in the record, showing the form and manner in which, in compliance with the terms of the said order, copies thereof were furnished to the several exceptants, objectors and movants mentioned in the table hereinafter set out, and to their counsel of record; and including also the order of this Court continuing the said hearing, and setting this proceeding for hearing on this the ^{14th}~~12th~~ day of March, 1934.

Petitioner further exhibited to the court report of the findings of arbitrators as to certain matters submitted to them under arbitration agreements hereinafter mentioned, which report petitioner moved the Court to order filed with the record.

And thereupon petitioner showed to the Court that arbitration agreements had been entered into by and between the petitioner and a number of the exceptants to the report of the Board of Appraisal Commissioners herein; that under authority and in pursuance of the said arbitration agreements, arbitrators were duly appointed, arbitration hearings were duly had, and that the above mentioned arbitrators' report set forth the findings of the said arbitrators acting under authority of the said arbitration agreements.

Petitioner further showed to the Court that, inter alia, questions as to the value of the fee simple estate in the numbered tracts of land within the area described in the petition herein, shown in the following table, and described under their respective numbers in the said report of the Board of Appraisal Commissioners herein, and as to incidental damages which will arise upon the condemnation thereof, were duly submitted to the said arbitrators, in pursuance of the said agreements, by the petitioner and some or all of the respective exceptants, objectors and movants whose names are set out after each of the said numbered tracts in the said table, which table is as follows:

Thereupon petitioner, by counsel moved the court to amend the findings as to value and damages set forth in Tables II and III of the said report of the Board of Appraisal Commissioners to conform with the findings of the said arbitrators; and, thereafter, to overrule and dismiss the several motions to disapprove the findings of the said Board of Appraisal Commissioners and the several objections and exceptions thereto, submitted by the several exceptants, objectors and movants whose names are set out in the above table, on their several exceptions, objections and motions, the answers thereto, and the supporting affidavits filed with the record, whether or not they or any of them are not lawfully bound by the findings of the said arbitrators, by reason of their omission or failure in fact to execute and enter into the above mentioned arbitration agreement, or by reason of any defect in form or of substance in the execution of said arbitration agreement, or by reason of any lack of power to execute the said arbitration agreement.

Upon consideration of all which it is adjudged and ordered that the findings as to value and incidental damages as shown in Table II. and Table III of the said report of the Board of Appraisal Commissioners as to the numbered tracts set forth in the above set out table should be and are amended in so far as that may be necessary to make the said findings conform with the findings set forth in the said report of findings by the said arbitrators; and the said amendments having been made, it is further adjudged and ordered, that the several motions to disapprove the findings of the Board of Appraisal Commissioners, and the several exceptions and objections thereto, filed by the several exceptants, objectors and movants mentioned in the above set out table should be and are overruled and dismissed, on their several exceptions, objections and motions, the answers thereto, and the supporting affidavits filed with

TABLE II

For amendments in amounts of value of tracts 24, 54, 70-I, 142, 148, 151, 151-a, 152, 164, 164-a, 173, see order entered herein March ~~7~~¹⁴, 1934.

TRACT
NUMBER

24	\$ 6374.00
54	22349.00
70-I	1200.00
142	2004.71
148	3337.77
151	20023.00
151-a	315.85
152	1650.00
164	3040.00
164-a	1500.00
173	2607.00

TABLE III

No findings as to incidental damages by Arbitrators, except as to Tract #151, as follows: Incidental damages to re-movable furnishings \$662.00. See order entered herein March ~~7~~¹⁴, 1934.

the record, whether they did or did not, in fact, severally execute and enter into the above mentioned arbitration agreements with the petitioner in such form and with such effect that they were and are lawfully bound by its terms and conditions.

It is further adjudged and ordered that the above mentioned amendments in the amounts of value and incidental damages set forth in Tables II and III of the report of the Board of Appraisal Commissioners herein, be made to appear by the Clerk of this Court, on the face of the said tables, accompanied with appropriate references to the date of entry of this order, by inserting the amended amounts of value in Table II of said report in red ink by the side of the numbered tract to which they relate, and by inserting with red ink in Table III of said report a note setting forth whether or not any findings as to the amount of incidental damages was made by the said arbitrators, and if the amount of any such incidental damages was found by the said arbitrators, the amount thereof and the numbered tract out of the condemnation of which such incidental damages were found to arise; all in substantially the form and manner and in the exact amounts as shown below: